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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES - Chairman

GARY PIERCE

PAUL NEWMAN

SANDRA D. KENNEDY

BOB STUMP

2009 JAN 15 P 4: 29

AZ CORP COMMISSION
DOCKET CONTROL

PAC-WEST TELECOMM, INC.,

Complainant,

v.

QWEST CORPORATION,

Respondent.

DOCKET NO. T-01051B-05-0495

T-03693A-05-0495

STAFF'S POSITION STATEMENT

Qwest Corporation ("Qwest") filed an action in the United States District Court for the District of Arizona ("District Court") seeking declaratory and injunctive relief from an Order of the Arizona Corporation Commission ("Commission") in Decision No. 68820. The District Court issued its Order on March 6, 2008. On July 25, 2008, Qwest filed a Notice of Final Order and Remand and a Motion for Judgment Pursuant to Mandate ("Motion") seeking to have the Commission vacate provisions of Decision No. 68820 which Qwest claims were enjoined by the Order of the District Court. Qwest also requests the Commission order Pac-West Telecomm, Inc. ("Pac-West") to refund Qwest the amount of \$1,849,153.22. By Procedural Order dated September 30, 2008, Qwest's Motion to refund the amounts paid to Pac-West was denied.

The Commission must now address the issues remanded from the Arizona Federal District Court. Since the District Court Order issued, the Federal Communications Commission ("FCC") has released an Order that is pertinent to the issues raised in this proceeding.¹

Arizona Corporation Commission

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¹ In the Matter of High Cost Universal Service Support, et al., WC Docket No. 05-337 et al., Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, (Rel. November 4, 2008).

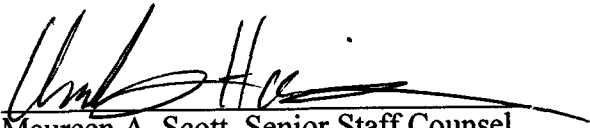
1 Based upon its review of the District Court Order and the FCC Order, Staff believes that the
2 following issues should be addressed in this proceeding:

- 3 1. What is the appropriate method for compensating for VNXX?
- 4 2. How does the FCC's Order on Remand impact the issue in this case?
- 5 3. Is VNXX local traffic?
- 6 4. Is VNXX interchange traffic, subject to access charges?
- 7 5. Is VNXX interexchange traffic, similar to FX traffic and should it be treated as FX-
8 like traffic? and
- 9 6. Would some other as yet-to-be defined rate scheme be appropriate for this traffic?

10 RESPECTFULLY SUBMITTED this 15th day of January 2009.

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13 For 
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20 Original and thirteen (13) copies
21 of the foregoing were filed this
22 15th day of January 2009 with:

23 Docket Control
24 Arizona Corporation Commission
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26 Phoenix, Arizona 85007

27 Copies of the foregoing mailed this
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